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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES EDWARD
ROBINSON,

Defendant and Appellant.

B269853

(Los Angeles County
Super. Ct. No. TA136591)

APPEAL from a judgment of the Superior Court of Los Angeles County, John J. Cheroske, Judge. Affirmed.

Carlo Andreani, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

Charles Edward Robinson appeals the judgment following his no contest plea to one count of voluntary manslaughter. (Pen. Code, § 192, subd. (a).) Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), appellant's counsel filed an opening brief requesting this court review the record and determine whether any arguable issues exist on appeal. Appellant filed a supplemental brief. After reviewing appellant's supplemental brief and the entire record, we find no arguable issue warranting reversal. We affirm.

BACKGROUND

Appellant engaged in a "road rage" incident, during which he followed the victims' car, called them "bitch ass Mexicans," threatened to kill them, and eventually physically assaulted one of them, then stole the victims' car keys and fled. The victim of the assault died from blunt force trauma to the head. Appellant was charged with second degree robbery (Pen. Code, § 211), dissuading a witness (Pen. Code, § 136.1, subd. (c)(1)), and murder (Pen. Code, § 187, subd. (a)), along with several prior prison terms. The court accepted his plea of no contest to the lesser charge of voluntary manslaughter and sentenced him to the agreed-upon upper term of 11 years in state prison. At the plea hearing, he indicated he understood his constitutional rights and waived them. He also indicated he spoke with his attorney and agreed to the disposition. The court dismissed the remaining counts and allegations and recommended fire camp at the request of the defense. Appellant filed a notice of appeal and was granted a certificate of probable cause.

DISCUSSION

We appointed counsel to represent appellant on this appeal. After review of the record, appellant's court-appointed counsel

filed an opening brief asking this court to review the record independently pursuant to *Wende, supra*, 25 Cal.3d at page 441. On August 5, 2016, we advised appellant he had 30 days to submit any contentions or issues he wished us to consider. He filed a supplemental brief raising various issues. We find none meritorious.

Appellant argues the trial court arbitrarily sentenced him to the upper term of 11 years without specifying aggravating factors. The parties' agreement to the upper term was sufficient reason for the court to impose it, so the court did not need to cite aggravating factors on the record. (*People v. Witherow* (1983) 142 Cal.App.3d 485, 487-488.)

Appellant also argues his counsel's performance was deficient because counsel refused to convey appellant's request for a lesser sentence for involuntary manslaughter to the prosecutor and "tacitly threaten[ed]" him with a life sentence if he did not take the prosecution's offer. Appellant has not shown his counsel's " " "performance fell below an objective standard of reasonableness under prevailing professional norms." ' ' ' (*People v. Orloff* (2016) 2 Cal.App.5th 947, 955.) His counsel may have had a tactical reason not to request a lesser sentence, given the 11-year offer for voluntary manslaughter was already generous and pushing for a lesser sentence might have jeopardized it. (*Ibid.* [" 'In the usual case, where counsel's trial tactics or strategic reasons for challenged decisions do not appear on the record, we will not find ineffective assistance of counsel on appeal unless there could be no conceivable reason for counsel's acts or omissions.' "].) Similarly, counsel was not deficient for pointing out the reality that appellant faced a potential life sentence if he

did not accept the prosecution's offer, which the court reiterated during the plea hearing.

We have examined the entire record. We are satisfied no arguable issues exist and appellant's counsel has fully satisfied his responsibilities under *Wende*. (*Smith v. Robbins* (2000) 528 U.S. 259, 279-284; *Wende, supra*, 25 Cal.3d at p. 441; see *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.